IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

CRL.A.No. 1082 of 2007()

AGAINST THE ORDER DATED 28/03/2007 IN CRMC.201/2007 IN SC.275/2002 of ADDL.SESSIONS COURT (ADHOC)-III, THALASSERY

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APPELLANTS: SURETIES:

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1. ASYA, W/O. ABDULLA,
   KOROTH HOUSE, ERANHOLI AMSOM, VADAKKUMBAD DESOM,
   THALASSERY.

2. RABIYA, W/O. IBRAHIM,
   THENULLATHIL HOUSE, ERANHOLI AMSOM,
   VADAKKUMBAD DESOM, THALASSERY.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.M. KAMMAPPU

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. APPEAL NO. 1082 OF 2007

Dated this the 20th day of June, 2007

JUDGMENT

This appeal is filed against the order in Cr. M.C. No. 210 of 2007 in S.C. No. 275 of 2002 on the file of the Additional Sessions Court (Adhoc - III), Thalassery.

2. The appellants stood surety for the 9th accused in the above Sessions Case. Since the accused did not appear before the court below on summons and after issuing warrant, M.C. proceedings were taken against the appellants. After complying with the provisions under Section 446 Cr.P.C., the impugned order was passed imposing a penalty of Rs.10,000/- each on the appellants.

3. When the appeal came up for admission, this Court heard the learned counsel appearing for the appellants as well as the learned Public Prosecutor.

4. It is seen that the 9th accused in the above Sessions Case was charge sheeted for the offence under Section 436 and other offences under the Indian Penal Code. Even after issuance of summons and warrant, the accused did not appear before the court. It is the duty of the sureties to produce the accused before the court and since they failed to do so, the court below was justified in imposing the penalty. Considering the fact that the appellants made all efforts to produce the accused before the court below, this Court is of the opinion that a lenient view can be taken. Accordingly, the penalty of Rs.10,000/- each imposed by the court below is reduced to Rs.7000/- each. The appellants shall remit Rs.4000/- each on or before 1.7.2007 and the balance amount of Rs.3000/- each on or before 30.7.2007. If the appellants remit the amount as directed, the warrant issued against them shall stand recalled. If they fail to do so, the court below is empowered to proceed against the appellants.

The Crl. Appeal is dismissed with the above modification.

(K.THANKAPPAN, JUDGE)

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